

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSMONDO SMITH,

Petitioner,

-against-

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

20-CV-9708 (CM)

ORDER DIRECTING PAYMENT OF
FEE OR IFP APPLICATION

COLLEEN McMAHON, Chief United States District Judge:

By order dated December 9, 2020, the Court directed Petitioner to pay the \$5.00 filing fee or complete and submit an *in forma pauperis* (IFP) application. (ECF 3.) Petitioner then submitted a second petition, which the Clerk of Court initially opened as a new proceeding; the Court directed the Clerk of Court to file the new petition in this action as an amended petition. (ECF 4.) Petitioner then submitted a letter, dated December 19, 2020, requesting leave to supplement his application. (ECF 5.) Petitioner has not, however, paid the filing fee or submitted an IFP application. The Court therefore grants him 30 days' leave to file the attached IFP application or pay the filing fee.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Petitioner and note service on the docket.

No answer shall be required at this time. If Petitioner complies with this order, the case shall be processed in accordance with the procedures of the Clerk's Office. If Petitioner fails to comply with this order within the time allowed, the action will be dismissed without prejudice for failure to pay the filing fee or submit an IFP application. An IFP application is attached.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: January 5, 2021
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge